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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/967,194	09/28/2001	Victor Key Pecone	4430-32	6054
22442	7590	03/23/2007	EXAMINER	
SHERIDAN ROSS PC 1560 BROADWAY SUITE 1200 DENVER, CO 80202			PEYTON, TAMMARA R	
			ART UNIT	PAPER NUMBER
			2182	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
31 DAYS		03/23/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/967,194	PECONE, VICTOR KEY
	Examiner Tammara R. Peyton	Art Unit 2182

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 28 September 2001.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-19 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) \_\_\_\_\_ is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) 1-19 are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_.

**Election/Restrictions**

This application contains claims directed to the following patentably distinct species of the claimed invention:

Species 1, claims 1-9 are directed to a network storage apparatus for connecting a host computer with at least one storage device, comprising: a passive backplane having a plurality of data buses including first and second data buses; at least first and second channel interface modules, connected to said passive backplane and adapted to be connected to the host computer and the at least one storage device, that are operational to send and receive storage data to and from the host computer and the at least one storage device and that are operational to selectively transfer the storage data to one or more of said plurality of data buses; and at least first and second controller memory modules, connected to said passive backplane, that communicate with said channel interface modules via said passive backplane, and that store and process the storage data transferred to and from said channel interface modules.

Species 2, claims 10-14 are directed to a method for transferring data between a host computer and one or more storage devices, comprising: transferring firstly data from the host computer to a channel interface module using a first channel medium; transferring secondly said data from said channel interface module to a first controller memory module using a passive backplane;

processing said data at said controller memory module to define storage data; transferring thirdly said storage data to said channel interface module via said passive backplane; transferring fourthly said storage data to the at least one storage device via a second channel medium; and mirroring said storage data between said first controller memory module and a second controller memory module substantially independently of said first channel medium and said second channel medium.

Species 3, claims 15-19 are directed to a network storage apparatus for connecting a host computer with at least one storage device, comprising: at least first and second channel interface modules, each adapted to be connected to a host channel and a disk channel, that are operational to send and receive data over the host channel and disk channel, the host channel being connected to the host computer and the disk channel being connected to the at least one storage device; at least first and second controller memory modules that communicate with said first and second channel interface modules and process data from the host computer to provide storage data for storage on the at least one storage device and process data from the at least one storage device to provide retrieved data for delivery to the host computer; and a passive backplane connected to each of said channel interface modules and each of said controller memory modules that supports communication between said channel interface modules and said controller memory modules, wherein when data is being carried by the host channel and/or the disk channel and at the same time data is being mirrored between said first controller memory module and said second controller memory module, neither the host channel nor the disk channel carries more than fifty per cent of said data being mirrored.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election. Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP 5809.02(a).

Should applicant traverse on the ground that the species are not patentability distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the

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application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tammara Peyton whose telephone number is (571) 272-4157. The examiner can normally be reached between 6:30 - 4:00 from Monday to Thursday, (I am off every first Friday), and 6:30-3:00 every second Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Huynh, can be reached on (571) 272-4147. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3718. Any inquiry of a general nature of relating to the status of this application should be directed to the Group receptionist whose telephone number is (571) 272-2100.

Mailed responses to this action should be sent to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231.

Faxes for Official/formal (After Final) communications or for informal or draft communications (please label "PROPOSED" or "DRAFT") sent to:

(703) 872-9306

Hand-delivered responses should be brought to:

USTPO, 2011 South Clark Place, Customer Window

Crystal Plaza Two, Lobby Room 1B03, Arlington, VA, 22202Crystal Park II, 2121.

**TAMMARA PEYTON  
PRIMARY EXAMINER**

Tammara Peyton

March 15, 2007

